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U.S. DISTRICT COURT
DISTRICT OF HAWAII
2003 MAR 21 AM 11:47

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF HAWAII

In re

HAWAIIAN AIRLINES, INC.,
a Hawaii corporation,

Debtor.

Case No. 03 - 00817
(Chapter 11)

**EXPEDITED MOTION FOR ENTRY OF
ORDER AUTHORIZING THE DEBTOR
TO ASSUME CERTAIN EXECUTORY
CREDIT CARD CONTRACTS**

ORIGINAL

32

**RELATING TO THE DEBTOR'S
HAWAIIANMILES PROGRAM**

Date: March 21, 2003

Time: 2:30 pm

Judge: Hon. Robert J. Faris

Hawaiian Airlines, Inc., the above-captioned debtor and debtor in possession, by and through its undersigned proposed co-counsel, hereby moves the Court for entry of an order authorizing the Debtor to assume certain executory credit card contracts relating to the Debtor's HawaiianMiles program (the "Motion"). In support of the Motion, the Debtor respectfully represents as follows.

I. JURISDICTION

1. This Court has jurisdiction over the subject matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The Court possesses the requisite authority to grant the relief requested herein pursuant to sections 365, 1107 and 1108 of title 11 of the United States Code as amended from time to time (the "Bankruptcy Code").

II. BACKGROUND

4. On March 21, 2003 (the “Petition Date”), the Debtor filed a petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Hawaii (the “Bankruptcy Court”). Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor is operating its businesses and managing its properties as a debtor in possession. No trustee, examiner or committee of creditors has been appointed in the Debtor’s chapter 11 case.

5. The Debtor was incorporated in January of 1929 under the laws of the Territory of Hawaii and is currently a subsidiary of Hawaiian Holdings, Inc. (“Hawaiian Holdings”),¹ a Delaware corporation whose common stock is traded on the American Stock Exchange and Pacific Exchange under the ticker symbol “HA.” As part of the regular Securities and Exchange Commission filings of Hawaiian Holdings, Hawaiian Holdings reports its financial and operating results with those of the Debtor on a consolidated basis.

The Debtor’s Business

6. The Debtor is engaged primarily in the scheduled transportation of passengers, cargo and mail. The Debtor’s passenger airline business is its chief

source of revenue. Principally all of the Debtor's flights either originate or end in the state of Hawaii. The Debtor provides passenger and cargo service from Hawaii, predominately Honolulu, to the cities of Los Angeles, Ontario, Sacramento, San Diego and San Francisco, California; Seattle, Washington; Portland, Oregon; Phoenix, Arizona; and Las Vegas, Nevada (the "Transpacific Routes"). The Debtor also provides non-stop service between and among the six major islands of the state of Hawaii (the "Interisland Routes") and weekly service to each of Pago Pago, American Samoa and Pepeeete, Tahiti in the South Pacific (the "South Pacific Routes"). Charter service is provided from Honolulu to Anchorage, Alaska (the "Charter Routes"). Based upon the Debtor's operating revenues, the Debtor is the largest airline headquartered in Hawaii.

7. Based on its unaudited results, the Debtor had a net loss of approximately \$58 million for the twelve months ended December 31, 2002 ("Year 2002") on operating revenue of approximately \$632 million for the same period. In comparison, for the twelve months ended December 31, 2001 ("Year 2001"), the Debtor reported net income of approximately \$5 million on operating revenue of approximately \$612 million for the same period. The Debtor's assets and liabilities, as of December 31, 2002, were approximately \$256 million and \$399

¹ Hawaiian Holdings holds 49.1% of the outstanding common stock of the Debtor directly. The remaining 50.9% of the outstanding common stock of the Debtor is held by AIP, Inc. ("AIP"), a wholly-owned subsidiary of Hawaiian Holdings.

million, respectively. The Debtor's reported assets and liabilities, as of December 31, 2001, were approximately \$305 million and \$327 million, respectively.

8. The Debtor is party to a network of agreements among airlines. Because of the interdependent nature of airline operations, coordination among airlines, provision of airline services, and efficient service by the airline industry to the traveling public, in general, would be virtually impossible without such agreements. Among other things, these agreements facilitate cooperation among airlines with respect to such critical activities as making reservations and transferring passengers, packages, baggage and mail among airlines.

The Debtor's Fleet

9. Beginning in the fourth quarter of 1999, the Debtor initiated a plan to replace its entire fleet of McDonnell Douglas DC-9 aircraft used to service its Interisland Routes. This effort was completed in the first quarter of 2002, with the Debtor taking delivery of thirteen Boeing 717-200 aircraft (the "717 Aircraft").

10. Similarly, in the fourth quarter of 2001, the Debtor initiated a plan to replace, by June 2003, its entire fleet of McDonnell Douglas DC-10 aircraft (the "DC-10 Aircraft") used to service the Transpacific Routes, South Pacific Routes and Charter Routes (the "Overseas Routes") with sixteen Boeing 767-300ER aircraft (the "767 Aircraft"). To date, the Debtor has taken delivery of ten new and four used Boeing 767-300ER aircraft and has returned eleven DC-10 Aircraft

leased from Continental Airlines, Inc. and a subsidiary of American Airlines, Inc ("American"). The Overseas Routes are currently serviced by fourteen Boeing 767-300ER aircraft.

11. All of the Debtor's aircraft are leased from various lessors under either financing or operating leases. Three of the Debtor's 767 Aircraft are leased under fifteen-year operating leases with a subsidiary of Ansett Worldwide Aviation Services, Inc. ("Ansett") and were delivered to the Debtor in the fourth quarter of 2001. Four 767 Aircraft were delivered in 2002 under seven-year operating leases with International Lease Finance Corporation. Seven of the Debtor's 767 Aircraft are leased under eighteen-year operating leases from Ansett and a subsidiary of Boeing Capital Corporation ("Boeing"). Each of the 717 Aircraft is leased under an eighteen-year leveraged financing lease with Boeing. The Debtor's four remaining DC-10 Aircraft are leased under operating leases with American and B.C.I. Leasing.

Employees

12. The Debtor has approximately 3,200 active employees, approximately 2,600 of which are employed on a full time basis. The majority of the Debtor's employees are covered by labor agreements with the International Association of Machinists and Aerospace Workers (AFL-CIO) ("IAM"); the Airline Pilots Association, International ("ALPA"); the Association of Flight Attendants

("AFA"); the Transport Workers Union ("TWU"); or the Employees of the Communications Section ("Communications Section"). Each of these labor agreements, other than the contract with the seven-member Communications Section, was renegotiated in 2000 or 2001, and will be subject to renegotiation again in 2004 or 2005.

Previous Restructurings

13. On September 21, 1993, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Bankruptcy Court (the "1993 Bankruptcy").² Following confirmation of the Debtor's plan of reorganization in the 1993 Bankruptcy on August 30, 1994, the Debtor successfully emerged from the 1993 Bankruptcy. Thereafter, on August 29, 2002, the Debtor was restructured from a public company into a wholly-owned subsidiary of Hawaiian Holdings and AIP (the "Restructuring"). As part of the Restructuring, the stockholders of the Debtor became stockholders of Hawaiian Holdings and Hawaiian Holdings assumed sponsorship of the Debtor's existing stock agreements. Prior to the Restructuring, the common stock of the Debtor was publicly traded on the American Stock Exchange and Pacific Exchange under Hawaiian Holdings' ticker symbol of "HA."

² United States Bankruptcy Court, District of Hawaii, Case No. 93-01074.

The Debtor's Current Financial Crisis

14. The Debtor's current financial crisis was precipitated by a confluence of factors relating, in large part, to the depressed economic conditions of both the United States and Japan. These factors include: (a) decreased fare revenue, (b) high aircraft lease costs, (c) high labor costs and (d) increased insurance, security and fuel costs. Although the terrorist attacks of September 11, 2001 are one of the most obvious and publicized reasons for the Debtor's current financial crisis, it is the significant, though related, decline in the economies of the United States and Japan that has most contributed to the necessity of the Debtor's chapter 11 filing.

15. Following the events of September 11, 2001, the Debtor has seen a marked and dramatic reduction in the demand for travel to and within the islands of Hawaii. This reduced demand has been exacerbated by the flagging economies of the United States and Japan since that time. The demand for vacation travel, which historically has been the Debtor's greatest source of income, has been most affected by the economic decline. In order to attract passengers, airlines, including the Debtor, have been forced to lower their fares. The introduction of "low cost carriers," such as Jet Blue, has led to a further reduction in fare structure, as national airlines have been forced to reduce ticket prices to remain competitive. The combination of fewer ticket sales made at reduced fares continues to impact the Debtor's revenue and earnings negatively.

16. Beginning in late 1999, as discussed above, the Debtor began a refueling process under which its aging fleet of McDonnell Douglas DC-9 aircraft and DC-10 Aircraft would be completely replaced by the end of 2003. By July of 2001, the Debtor had entered into the last of its agreements with lessors that would provide the aircraft for this refueling. Although the terms of these agreements were considered to be fair and at market rates when agreed to, the subsequent and unforeseen decline in economic conditions in the United States and abroad have caused the terms of such leases to be highly unfavorable. Because its aircraft lease costs are grounded in economic assumptions that have failed to materialize, the Debtor has been forced to shoulder the crippling costs of over-market leases. For the Year 2002, expenses associated with the Debtor's aircraft leases made up 12% of its total operating expenses.

17. Similarly, because the Debtor's union agreements were renegotiated in 2000 and 2001, the Debtor's labor costs have not been in line with current economic conditions. Based upon market assumptions made in 2000 and pre-September 11, 2001, the Debtor's labor costs have exceeded what the Debtor could realistically maintain based upon its revenues. This relative increase in labor costs, as compared to revenue, has negatively impacted the Debtor's ability to remain a viable enterprise. For the Year 2002, the Debtor's labor costs made up 30% of its total operating expenses.

18. As a direct result of the events of September 11, 2001 and the long-standing international crises in the Middle East, the Debtor has seen increases in several of its cost centers. For instance, insurance rates associated with airline operations have increased substantially as compared to pre-September 11, 2001 rates. Because of increased airline security requirements, the Debtor also has been faced with increased security expenditures. Moreover, fuel costs, which made up approximately 14% of the Debtor's operating expenses for Year 2002, also have steadily increased during this period. These increased costs, in the face of declining revenues, have further weakened the Debtor's ability to succeed as a going-concern.

Prepetition Activities

19. The two largest controllable components of the Debtor's cost structure are labor and aircraft costs. These are, therefore, the two areas upon which the Debtor had focused prior to the Petition Date in trying to accomplish a successful out-of-court financial and operational restructuring. To that end, the Debtor has, particularly within the past year, been actively negotiating with both its aircraft lessors and labor unions to reduce its aircraft and labor costs, respectively. These negotiations have continued up until the Debtor's bankruptcy filing. On February 20, 2003, the Debtor's employees represented by IAM agreed to \$3.8 million in concessions. On March 6, 2003, the Debtor's employees represented by ALPA

reached an agreement with the Debtor with respect to approximately \$8 million in concessions. Similarly, on March 11, 2003, the Debtor's employees represented by AFA agreed to approximately \$3.5 million in concessions. Although the Debtor and its labor unions have made great progress in these negotiations, it now appears that the only practicable way for the Debtor to reorganize is under the protection afforded to it under the Bankruptcy Code, as the Debtor has not been successful in its attempts to negotiate significant concessions from its aircraft lessors.

HawaiianMiles

20. As part of the Debtor's frequent flyer program, HawaiianMiles, the Debtor has entered into co-branded credit card agreements with Wells Fargo Bank Nevada, N.A. ("Wells Fargo") and Bank of Hawaii ("BankOH") (collectively, the "Credit Card Companies") to provide cardholders with HawaiianMiles when they purchase products and services using the co-branded credit cards.

21. In connection with its HawaiianMiles program, the Debtor offers a co-branded credit card pursuant to a Co-Branded Card Agreement as amended between Wells Fargo³ and the Debtor, dated September 30, 1997 (the "Wells Fargo Agreement"). Under the Wells Fargo Agreement, the Debtor provides Wells Fargo with access to the Debtor's list of HawaiianMiles members and allows Wells Fargo

³ Wells Fargo Bank (Arizona), N.A. assigned its rights and obligations under the Wells Fargo Agreement to Wells Fargo Bank Nevada, N.A. effective July 1, 1999.

to make certain, limited use of the Debtor's logos, trademarks, trade names and service marks. The Debtor agrees to cooperate with Wells Fargo to promote and market the co-branded credit card program. The Debtor also is required to provide Wells Fargo with the Debtor's customer and marketing lists for Wells Fargo to use for soliciting potential co-branded credit cardholders. Pursuant to the Wells Fargo Agreement, Wells Fargo pays the Debtor on an agreed-upon rate schedule each time cardholders are billed for annual fees, account activation, and miles earned. During the year ended December 31, 2002, the Debtor derived \$5.3 million in revenue from the Wells Fargo Agreement. The term of the Wells Fargo Agreement will extend until the earlier of April 30, 2003 or the closing of the purchase by Bank of America, NA (USA) ("Bank of America") of Wells Fargo's portfolio of credit card customers.⁴

22. The Debtor also offers a co-branded credit card pursuant to a Co-Branded Check Card Agreement Between Bank of Hawaii and Hawaiian Airlines, Inc., effective as of January 1, 2003 (the "BankOH Agreement"). Pursuant to the BankOH Agreement, the Debtor and BankOH issued a co-branded HawaiianMiles Check Card program whereby BankOH issues a co-branded VISA check-card. The

⁴ The Debtor currently intends to offer a co-branded credit card pursuant to the Bank of America/Hawaiian Airlines C-Brand Card Agreement (the "BOA Card Agreement") executed by the Debtor and Bank of America on December 19, 2002. Bank of America and Wells Fargo are currently engaged in negotiations concerning Bank of America's purchase of accounts in the Wells Fargo Program. The Debtor is not seeking to assume the BOA Card Agreement at this time.

Check Card program whereby BankOH issues a co-branded VISA check-card. The program provides cardholders with HawaiianMiles awards based on the mileage accrued through the use of the cards. The Debtor and BankOH both have marketing and solicitation obligations in connection with the HawaiianMiles Check Card program. BankOH pays the Debtor for its participation in the co-branded credit card based on formulas set forth in the BankOH Agreement. The initial term of the BankOH Agreement continues until March 31, 2006.

23. Holders of the of the Debtor's co-branded credit cards are entitled to membership in one of two levels of membership in HawaiianMiles—Pualani Platinum and Pualani Gold. Pualani Platinum co-branded cards are entitled to a special ID card, 100% bonus HawaiianMiles on qualifying flights, a guaranteed interisland coach seat up to 48 hours prior to departure, free first class upgrades on interisland flights within 48 hours prior to departure, extra check-in luggage allowance, and all Premier Club privileges. Holders of the Wells Fargo's Pualani Gold co-branded cards are entitled to a special ID card with associated special handling, 50% bonus HawaiianMiles on qualifying flights, extra check-in luggage allowance, and all Premier Club privileges.

24. The Debtor's obligations under the Wells Fargo Agreement and the BankOH Agreement (collectively the "Credit Card Agreements") do not include any significant financial burdens. Additionally, the Debtor does not owe any

prepetition arrearages under the Credit Card Agreements. As such, the Credit Card Agreements and their respective co-branded credit card programs represent a source of significant income to the Debtor.

III. RELIEF REQUESTED

25. By this Motion, pursuant to section 365 of the Bankruptcy Code, the Debtor seeks entry of an order (the “Credit Card Assumption Order”) authorizing the Debtor to assume the Credit Card Agreements and cure any defaults thereunder in the ordinary course of business, effective as of the entry of the Credit Card Assumption Order (the “Effective Date”).

26. The Debtor seeks this Court’s approval of the following procedures (the “Credit Card Assumption Procedures”) relating to the entry of the Credit Card Assumption Order:

(a) Within three business days of the Effective Date, the Debtor shall serve the Motion and the Credit Card Assumption Order, via overnight delivery service, on each of the Credit Card Companies. (Because the Debtor filed this Motion on its petition date, it was unable to give the Credit Card Companies prior notice pursuant to Rules 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”).⁵)

(b) To satisfy the notice and hearing requirements of Bankruptcy Rule 9014, should any of the Credit Card Companies object to the Debtor’s proposed assumption of the credit card agreement to which it is a party, such

⁵ A proceeding to approve assumption of an executory contract is a contested matter requiring reasonable notice and opportunity for hearing. *See* FED. R. BANKR. P. 6006(a) (“A proceeding to assume, reject, or assign an executory contract . . . is governed by Rule 9014.”); FED. R. BANKR. P. 9014 (“In a contested matter in a case under the [Bankruptcy] Code not otherwise governed by these rules, relief shall be requested by the motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought.”)

objecting Bank must file and serve a written objection and notice of hearing so that such objection and notice is filed with this Court and is actually received by the following parties (collectively, the "Notice Parties") no later than twenty (20) days after the Effective Date:

The Office of the United States Trustee
1132 Bishop Street, Room 602
Honolulu, Hawaii 96813

Christine R. Deister
Hawaiian Airlines, Inc.
3375 Koapaka Street, Suite G-350
Honolulu, Hawaii 96819

Lisa G. Beckerman, Esq.
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Nicholas C. Dreher, Esq.
Cades Schutte LLC
1000 Bishop Street, 12th Floor
Honolulu, Hawaii 96813

(c) If no objection is timely filed, the Debtor proposes that the Credit Card Assumption Order automatically become final.

(d) If an objection to the Motion is timely filed by any of the Credit Card Companies with respect to the Credit Card Agreement to which it is a party, the Debtor shall schedule a hearing to consider the objection only with respect to the assumption of the Credit Card Agreement to which an objection is properly filed and served. If such objection is overruled or withdrawn at that time, the Credit Card Assumption Order shall automatically be deemed final as of the Effective Date.

27. The Credit Card Assumption Procedures are fully consistent with due process and the strictures of Bankruptcy Rule 9014. *See A.H. Robins Co. v.*

Piccinin (In re A.H. Robins Co.) 788 F.2d 994, 1015 (4th Cir.), *cert. denied*, 479

U.S. 876, 107 S.Ct. 251, 93 L.Ed.2d 177 (1986) (holding that a conditional order procedure in contested matters satisfies notice requirements of both constitutional due process and Bankruptcy Rule 9014); *Banc Am. Commercial Corp. v. Northern Ill. Gas Co. (In re NRen Corp.)*, 79 B.R. 730, 732 (Bankr. S.D. Ohio 1987) (explaining function and purpose of conditional orders in contested matters and overruling objection to conditional order approving distribution of proceeds of asset sale). *See also* 11 U.S.C. § 105(a) (authorizing court to enter “any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]”).

28. The Credit Card Assumption Procedures balance the due process rights of the Credit Card Companies without unduly exposing the Debtor’s estate to unwarranted postpetition administrative expenses. *See In re Amber’s Stores, Inc.*, 193 B.R. 819, 827 (N.D. Tex. 1996) (“where the debtor vacated the premises and turned over the keys to the landlord over a month before the petition was filed, the debtor should not be permanently penalized by the time lag between filing a motion and the entry of an order by the court.”).

IV. APPLICABLE AUTHORITY

29. Under section 365(a) of the Bankruptcy Code, a debtor, “subject to the court’s approval, may assume or reject an executory contract or unexpired lease.” 11 U.S.C. § 365(a); *see also In re Hawaii Dimensions, Inc.*, 39 B.R. 606 (Bankr. D.

Haw. 1984). An executory contract is one where “the obligations of both parties are so unperformed that the failure of either party to complete performance would constitute a material breach and thus excuse the performance of the other.” *See In re Robert L. Helms Constr.*, 139 F.3d 702, 705 (9th Cir. 1998) (quoting from *In re Wegner*, 839 F.2d 533, 536 (9th Cir. 1988)); *see also In re Select-A-Seat Corp.*, 625 F.2d 290, 292 (9th Cir. 1980).

30. In the case of the Credit Card Agreements, there are unperformed continuing obligations for both the Debtor and the Credit Card Companies. For example, the Debtor is under a continuing obligation to promote and market the co-branded credit card program. The Credit Card Companies, on the other hand, must pay the Debtor each time cardholders are billed for annual fees, accounts are activated, or miles are earned. As such, the Credit Card Agreements constitute executory contracts assumable under section 365 of the Bankruptcy Code. *In re Thomas B. Hamilton Co., Inc.*, 969 F.2d 1013, 1020-22 (11th Cir. 1992).

31. The assumption or rejection of an executory contract by a debtor in possession is subject to review under the business judgment standard. If such business judgment has been reasonably exercised, the Court should approve the proposed assumption or rejection. *See, e.g., NLRB v. Bildisco and Bildisco*, 465 U.S. 513, 523 (1984); *see also In re G.I. Indus.*, 204 F.3d 1276 (9th Cir. 1999) (the decision to assume or reject an executory contract or unexpired lease is a matter

within the “business judgment” of the debtor); *In re Minges*, 602 F.2d 38, 42 (2d Cir. 1979).

32. In the Debtor’s business judgment, it is in the best interests of the Debtor and its estate to assume the Credit Card Agreements. The HawaiianMiles Program is essential to the success of the Debtor’s business because of its ability to develop customer loyalty, generate goodwill and attract new customers. The Credit Card Agreements, which allow the Debtor’s customers to earn miles by making purchases with their co-branded cards, are an integral facet of the HawaiianMiles Program. The assumption of the Credit Card Agreements will help foster the growth of the HawaiianMiles Program, which will in turn help the Debtor generate the repeat business and customer loyalty that are crucial in the ever-competitive airline industry. The refusal of the Credit Card Companies to continue operating under the terms of the Credit Card Agreements would be a substantial blow to the Debtor’s operational and reorganizational efforts.

33. In addition, the Credit Card Agreements, for the most part, impose non-financial obligations which are insignificant in comparison to the benefit the Debtor receives from consumer usage of the co-branded credit cards. The Debtor’s most significant obligations under the Credit Card Agreements are to provide the Credit Card Companies with customer information and to promote the co-branded credit card program. The Credit Card Agreements constitute a substantial benefit

to the Debtor's estate because, among other things, they result in revenues that are not offset by significant financial or other obligations.

34. Airlines seeking to enter a co-branding credit card agreement with a national credit card issuer are faced with a limited number of quality options. By partnering the Debtor with Wells Fargo, the Wells Fargo Agreement provides the Debtor with one of the premier credit card issuers in the nation. Additionally, Wells Fargo's dominance in the west coast market is especially suitable to the Debtor because the Debtor's customers generally reside in Hawaii or on the west coast of the United States mainland. Furthermore, Wells Fargo and Bank of America are currently in negotiations regarding the purchase by Bank of America of Wells Fargo's portfolio of credit card customers. This purchase would dramatically enhance the value of the Debtor's BOA Card Agreement. Therefore, it is in the debtor's best interest that the Wells Fargo Agreement be assumed and that the Debtor continue the Wells Fargo Program through its natural expiration.

35. The BankOH Agreement is similarly valuable to the Debtor. BankOH's status as the premiere credit card issuer in Hawaii makes the BankOH co-branded credit card program an invaluable tool for developing business relationships with residents of Hawaii. BankOH is especially suitable because the vast majority of its customers fall within the target demographic that the Debtor wishes to reach.

36. Accordingly, because the Debtor reaps significant monetary and non-monetary benefits, including customer loyalty and satisfaction, as a party to the Credit Card Agreements, the Debtor submits that the assumption of the Credit Card Agreements is in the best interests of the Debtor, its estate, and its creditors.

37. The Debtor has satisfied the other requirements of section 365 of the Bankruptcy Code. Specifically, the Debtor proposes to cure all defaults under the Credit Card Agreements, if any, through the continued performance under such Agreements in the ordinary course of business. *See* 11 U.S.C. § 365(b)(1)(A). Furthermore, there is an adequate assurance of future performance under section 365(b)(1)(C) of the Bankruptcy Code because of the essential nature of the Credit Card Agreements.

V. NOTICE


38. Notice of this Motion has been provided to: (i) the Office of the United States Trustee for District of Hawaii; (ii) parties appearing on the Debtor's list of creditors holding the twenty largest unsecured claims; (iii) the Securities and Exchange Commission; and (iv) the Internal Revenue Service. Given the circumstances, the Debtor submits that no other or further notice need be given.

VI. NO PRIOR REQUEST

39. No previous request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests that the Court enter an order (a) authorizing the Debtor to assume the Credit Card Agreements and (b) granting such other and further relief as this Court may deem just and proper.

Dated: Honolulu, Hawaii, March 21, 2003

By: 
NICHOLAS C. DREHER, ESQ.
THEODORE D.C. YOUNG, ESQ.
CADES SCHUTTE LLC

and

LISA G. BECKERMAN, ESQ.
DAVID SIMONDS, ESQ.
AKIN GUMP STRAUSS HAUER & FELD LLP

Proposed Counsel for Debtor and Debtor in Possession

IN THE UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re) **Case No. 03 - 00817**
) (Chapter 11)
HAWAIIAN AIRLINES, INC.,)
a Hawaii corporation,) **ORDER AUTHORIZING THE DEBTOR TO**
) **ASSUME CERTAIN EXECUTORY CREDIT**
Debtor.) **CARD CONTRACTS RELATING TO THE**
) **DEBTOR'S HAWAIIAN MILES PROGRAM**
)
)
) Date: March 21, 2003
) Time: 2:30 p.m.
) Judge: Hon. Robert J. Faris
)
_____)

Upon consideration of the Expedited Motion for entry of Order Authorizing the Debtor to Assume Certain Executory Credit Card Contracts Relating to the Debtor's HawaiianMiles Program (the "Motion"),¹ filed by Hawaiian Airlines, Inc., the debtor and debtor in possession in the above-captioned chapter 11 case (the "Debtor"), by and through its proposed co-counsel; and it appearing that notice of the Motion was appropriate and no further notice of the relief requested in the Motion is required; and upon consideration of the evidence presented to the Court in support of the Motion; and after due deliberation; and sufficient cause

¹ All capitalized terms not defined herein shall be as defined in the Motion.

appearing therefor; the Court is of the opinion that the Motion is well-founded and should be granted in all respects.

IT IS HEREBY ORDERED THAT:

1. The Motion is granted in its entirety.
2. The Credit Card Assumption Procedures are approved.
3. The Debtor's business judgment to assume and ratify the Credit Card Agreements is reasonable and appropriate, and the assumption and ratification of such agreements is hereby approved, and any prepetition or postpetition transfers made pursuant to such agreements are ratified.
4. The Debtor is authorized to take any and all actions necessary or desirable to perform their obligations and the transactions contemplated under the Credit Card Agreements, pending this Order becoming final (as provided in paragraph 6 of this Order).
5. Prior to twenty (20) days after the entry of this Order (the "Effective Date"), the affected Credit Card Company may file with the Court and serve on the Notice Parties, an objection and notice of hearing, which shall be scheduled by the Debtor for hearing on the next scheduled omnibus hearing date that provides not less than 10 (ten) days' notice of such objection; provided, however, that each Credit Card Company shall only have the right to object to the entry of this Order with respect to the Credit Card Agreement to which it is a party.

6. If no objection is filed within such twenty (20) day period, this Order shall become final without further order of this Court. This Order shall remain in effect notwithstanding any objection until further order of this Court, and any modification or vacation of this Order shall not impair any action taken pursuant to it prior to its modification or vacation.

7. A copy of the Motion and this Order shall be served on each of the Credit Card Companies, via overnight courier, within three business days of the Effective Date.

8. Notwithstanding the possible applicability of Bankruptcy Rules 7062, 9014 or otherwise, this Order shall take effect immediately upon entry.

9. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

10. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

Dated: Honolulu, Hawaii, _____, 2003.

UNITED STATES BANKRUPTCY JUDGE

In re Hawaiian Airlines, Inc., Chapter 11, Case No. 03-_____;
ORDER AUTHORIZING THE DEBTOR TO ASSUME CERTAIN
EXECUTORY CREDIT CARD CONTRACTS RELATING TO THE DEBTOR'S
HAWAIIAN MILES PROGRAM